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FILED  
12:54 O'Clock *R*.M.  
FEB 28 2011  
JEANNE HICKS, Clerk  
By: *Rita Storms*

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF YAVAPAI**

DIVISION PRO TEM B

HON. WARREN R. DARROW

By: Diane Troxell, Judicial Assistant

CASE NUMBER: V1300CR201080049

Date: February 28, 2011

TITLE:

COUNSEL:

STATE OF ARIZONA

Sheila Sullivan Polk  
Yavapai County Attorney  
Bill Hughes, Esq.  
Steven Sisneros, Esq.  
Deputy Yavapai County Attorneys

(Plaintiff)

(For Plaintiff)

vs.

JAMES ARTHUR RAY

Thomas K. Kelly, Esq.  
425 E. Gurley  
Prescott, AZ 86301

Luis Li, Esq.  
Brad Brian, Esq.  
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Miriam Seifter, Attorney at Law  
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355 S. Grand Avenue, 35<sup>th</sup> Fl.  
Los Angeles, CA 90071

(Defendant)

(For Defendant)

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**RULING ON STATE'S MOTION IN LIMINE RE: EXPERT RICK ROSS**

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The Court has considered the State's motion, the response, and the reply. The parties have waived in open court the original request for oral argument.

A. Evidence of Mr. Ross's 1976 Felony Conviction.

Citing *State v. Conroy*, 131 Ariz. 528, 642 P.2d 873 (App.1982), the Defendant argues that a 35-year-old felony conviction is relevant to Mr. Ross's qualifications as an expert witness and that to preclude evidence and cross-examination regarding this felony would be a violation of the constitutional right of confrontation. The *Conroy* case is distinguishable from the present case, particularly with regard to the age of the prior felony conviction being offered for impeachment. In *Conroy* the trial court precluded evidence of an eight-year-old rape conviction that was offered for purposes of impeachment of a key prosecution witness in a child molestation case.

After according necessary deference to the important constitutional rights noted by the defense, this Court concludes that Defendant Ray's right of confrontation and his right to present a complete defense are not implicated by precluding the use of the 35-year-old felony conviction. Any relevance of the prior felony conviction to Mr. Ross's qualifications is tenuous. Evidence of this very old conviction would be more a general attack on Mr. Ross's character than a specific attack on his qualifications. This Court notes that although the issues involving a violation of constitutional rights and issues involving application of Rule 609 of the Arizona Rules of Evidence are distinct, Rule 609 may provide some guidance in determining when the right of confrontation would be thwarted by preclusion of evidence of a prior felony conviction of a witness. See *State v. Clifton*, 751 P.2d 27, 29-30 (Alaska 1988).

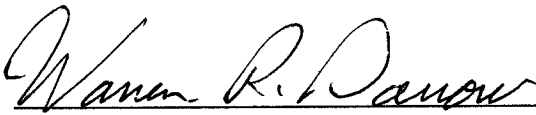
Based on the information provided, this Court also concludes that the prior felony conviction would not be admissible under Rule 609(b). The probative value of the conviction as supported by facts and circumstances presented to this Court do not substantially outweigh its prejudicial effect; rather, the Court concludes that the prejudicial effect of this evidence greatly outweighs any probative value.

Should Mr. Ross testify at trial, evidence of the prior felony conviction would not be admissible.

**B. Evidence of Mr. Ross's Cult-Deprogramming Practices**

From the information provided in pretrial motions, the Court concludes that the concepts of Large Group Awareness Training and cult deprogramming are related. This Court also concludes that any evidence of cult deprogramming would be relevant to issues of bias of the witness and to the education, training and other qualifications of Mr. Ross as an expert witness. Therefore, should Mr. Ross testify, the defense may cross-examine and offer evidence concerning his cult-deprogramming activity. See *State v. Uriarte*, 194 Ariz. 275, 280, 981 P.2d 575, 580 (App.1999).

**DATED** this 28<sup>th</sup> day of February, 2011.

  
**Warren R. Darrow**  
**Superior Court Judge**

cc: Victim Services Division